

IN SENATE OF THE UNITED STATES.

MARCH 17, 1848.

Submitted, and ordered to be printed.

Mr. MASON made the following

REPORT:

[To accompany bill S. No. 171.]

The Committee of Claims, to whom was referred the petition of Charles M. Gibson, praying compensation for the loss of a wagon and horses, which were captured and destroyed by the Seminole Indians during the war in Florida, in the year 1839, the same being then in the military service of the United States, have had the same under consideration, and report:

That, after a careful examination of the proofs, they concur entirely in the report made in this case, by a committee of the House of Representatives, dated February 15, 1844, and which is annexed hereto; they, therefore, report a bill for the relief of the petitioner.

IN HOUSE OF REPRESENTATIVES.—February 15, 1844.

The Committee of Claims, to whom was referred the petition of Charles M. Gibson, report:

That they have had the same under consideration, and, from the evidence adduced, believe the petitioner entitled to relief.

The object of his application is indemnity from the government for the loss of a wagon and team, consisting of six horses, captured and destroyed by the Seminole Indians in the month of February, 1839, while in the military service of the United States, in hauling provision for the army from St. Mark's to Fort Wacissa, in Middle Florida.

Without reviewing all the evidence offered by Mr. Gibson, (which is quite voluminous,) the committee would only refer to such parts as seem to them to be material, and bear directly upon the merits of the case. The first is the certificate of Captain R. H. Peyton, of the army, which is in the following language:

"FORT BROOKE, TAMPA BAY,
July 7, 1837.

"I certify that a wagon and team hired by me at St. Mark's, on the 18th of February, 1839, and belonging to Charles M. Gibson, was attacked by a party of Indians on or about the 19th of February, 1839, between Magnolia and Wacissa, (Middle Florida.) The wagon was destroyed, and, I believe, part of the team. No agreement was made stipulating that said Gibson should incur the risk of loss in case of an attack by the enemy; nor do I believe that any fault or negligence can justly be attached to the driver, as wagons had been frequently passing on that route without escort.

"R. H. PEYTON,
"Captain A. Q. M."

This seems conclusive as to the loss of the wagon, which is also supported by various statements and affidavits which it is thought unnecessary to mention.

As to the team, the committee would state that the evidence is not sufficient, in their opinion, to warrant any recommendation for relief.

Captain Peyton says he "believes part of the team was destroyed," but he does not say what number, or their value; which seems to be too indefinite to authorize any compensation on that account. Touching the value of the wagon, the evidence is full; and all the witnesses state, upon oath, (to wit: W. Monroe, Toliver Stinson, John Lisk, and W. H. Gaines,) that it was worth at least three hundred dollars. The last person named says he "had been for some years in the habit of trading in wagons in Florida, and should not hesitate to say that the wagon of Charles M. Gibson, which he knew well, was worth, excluding the harness, three hundred dollars." The others, without saying anything about the harness, put their estimation at three hundred dollars. The committee, therefore, take that as the proper amount to be allowed as a fair compensation for the loss.

The principles upon which the committee believe the applicant in this case entitled to remuneration, are those recognised in the act of Congress approved the 3d of March, 1817, and third section, in which it is provided, "That any person who has sustained damage, by the loss of any horse, mule, ox, wagon, cart, boat, sleigh, or harness, while such property was in the military service of the United States, either by impressment or contract, except in cases where the risk to which the property would be exposed was agreed to be incurred by the owner, if it shall appear that such loss was without any fault or negligence on the part of the owner, shall be allowed and paid the value thereof." This provision was renewed and continued in force by the third section of the act of 3d March, 1837. The certificate of Captain Peyton, of the army, who contracted for Mr. Gibson's wagon, the committee believe brings his case clearly within the principles of said provision, which the committee also believe to be the proper principle to be adopted in all such cases. They therefore report a bill.